



U.S. Department of Justice

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June 15, 2023

BY ECF

Hon. Jennifer H. Rearden
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States et al. v. Voyager Digital Holdings et al.*, No. 23 Civ. 2171 (JHR)
(Bankruptcy Appeal)

Dear Judge Rearden:

We write to respond to the letters from the debtors and the Plan Administrator discussing the Second Circuit's decision in the *Purdue Pharma* bankruptcy.

The *Purdue* decision held that "two sections of the Bankruptcy Code, 11 U.S.C. §§ 105(a), 1123(b)(6), jointly provide the statutory basis for the bankruptcy court's authority to approve a plan that includes nonconsensual releases of third-party claims against non-debtors." *In re Purdue Pharma, L.P.*, __ F.4th __, 2023 WL 3700458, at *2 (2d Cir. May 30, 2023). The *Purdue* decision did not hold that bankruptcy courts may pretermit future civil and criminal federal law enforcement actions against non-debtors. Nor did the Second Circuit hold that a bankruptcy court can exculpate non-debtors for future conduct, and as to entities not even in existence at the time of plan confirmation. Accordingly, and for the reasons set out in the government's brief, this court should strike the challenged exculpation provision.

We thank the Court for its consideration of this letter.

Respectfully,

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